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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3573 of 2007

Date of decision: 21.8.2007

Jit Singh and another **...Petitioners**

Versus

Sham Lal and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vivek Goel, Advocate for the petitioners.

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RAJESH BINDAL, J.

Challenge in the present petition filed under Article 227 of the Constitution of India is to the order dated April 10, 2007 passed by the Civil Judge (Senior Division), Faridkot whereby application filed by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure seeking amendment of the written statement was dismissed.

Learned counsel for the petitioners submitted that written statement in the present case, on behalf of the petitioners, was filed through Shri Mangat Arora, Advocate on January 13, 2004. Petitioners could not understand the contents thereof being illiterate. It was later on noticed that counsel was related to defendant no.3 (respondent no.2 in the petition) and Shri Mangat Arora had been a counsel for defendant no.3 in the proceedings under Section 145 of the Code of Criminal Procedure regarding the land in question. Accordingly, a serious prejudice has been caused to the petitioners on account of certain admissions made in the written statement filed. He further submitted that after finding the present position, they had changed the counsel, who, after going through the file, noticed the mistake and advised for amendment of written statement.

Learned counsel for the respondents, on the other hand,

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submitted that filing of the application for amendment of written statement and also the present petition in this Court is nothing but an abuse of the process of the Court, the same having been filed with an object to delay the proceedings. He submitted that in his opinion amendment sought to be made does not have any effect whatsoever and further that infact the petitioners had changed their counsel during the course of evidence being led by the plaintiff/respondents and the amendment now sought to be made was not even put in the cross examination even by the changed counsel. Thereafter, the defendants took four adjournments for leading their evidence, but nothing was done, and it was only thereafter the present application was filed just with a view to delay the proceedings.

Having heard learned counsel for the parties, I find weight in the contention raised by learned counsel for the respondents. Learned trial Court, while dismissing the application filed by the petitioners, has specifically noticed the facts that changed counsel cross examined the witnesses of the plaintiff/respondents and even in their cross examination no such question was put to them. If this fact had come into the knowledge of the petitioners that earlier counsel had made certain admissions in the written statement which are detrimental to their interest and on that account they had changed the counsel but still no such question had been put to the respondents in their cross examination, all what can be inferred therefrom is that his present application is merely an after thought and not a bona-fide.

Accordingly, I do not find any merit in the present petition and the same is dismissed.

August 21 , 2007 **(Rajesh Bindal)**
Pka **Judge**